

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ELAINER N. WILLIAMS-FERGUSON,

Plaintiff,

vs.

ANDREW M. SAUL, Commissioner of Social
Security;

Defendant.

8:19-CV-468

ORDER

This matter comes before the Court on Plaintiff's Unopposed Motion to Extend Time to File a Notice of Appeal. [Filing 21](#). Plaintiff seeks an extension to "14 days from the date the Supreme Court decides the agency issue exhaustion issue [sic] for SSA ALJ Appointments Clause challenges, or to 14 days from when the Supreme Court denies review of *Davis v. Saul* and any other petitions for writ of certiorari on that issue." [Filing 21](#) at 1.

Judgment in this case was entered on July 29, 2020. [Filing 20](#). In accordance with [Federal Rule of Appellate Procedure 4\(a\)\(1\)\(B\)](#), the notice of appeal must be filed within 60 days from entry of the Judgment, or September 27, 2020. The Rule goes on to provide that a district court may extend the time to file a notice of appeal if a party moves within 30 days after the prescribed appeal time and shows excusable neglect or good cause. [Fed. R. App. P. 4\(a\)\(5\)\(A\)](#). However, "[n]o extension under this Rule 4(a)(5) may exceed 30 days after the prescribed time or 14 days after the date when the order granting the motion is entered, whichever is later." [Fed. R. App. P. 4\(a\)\(5\)\(C\)](#).

Plaintiff has moved for an extension within the required time period and shown good cause based on a pending petition for certiorari, but the Court lacks the authority to grant her request for an indefinite extension due to [Federal Rule of Appellate Procedure 4\(a\)\(5\)\(C\)](#). Instead, the Court

will grant Plaintiff an extension to file a Notice of Appeal to 30 days after the prescribed time would otherwise expire, or October 27, 2020, the longest extension the Court can grant under the constraints of the applicable rules. Accordingly,

IT IS ORDERED:

1. Plaintiff's Unopposed Motion to Extend Time to File a Notice of Appeal, [Filing 21](#), is granted to the extent of the Court's authority; and
2. Plaintiff shall have until October 27, 2020, to file a Notice of Appeal.

Dated this 25th day of September, 2020.

BY THE COURT:



Brian C. Buescher
United States District Judge